

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

VINCENT NWAFOR
Plaintiff

V.

UNITED STATES OF AMERICA
Defendant

IN THIS MATTER OF
Case No. 08 C 3051
(90 CR 0654-2)

Honorable James F. Holderman
Judge Presiding

FILED
Aug 21, 2008
AUG 21 2008
AUG 21 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, that Vincent Nwafor, the Pro Se Plaintiff, above named hereby appeals the District Judge's decision to deny and terminate Plaintiff's Motion For Return Of Property, entered in the above entitled cause on June 10, 2008, to the United States Court Of Appeals for the Seventh Circuit.



Vincent Nwafor, Pro Se
Reg. No. 96415-024
L.S.C.I. - Allenwood
P.O. Box 1000
White Deer, PA. 17887

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

VINCENT NWAFOR,
Plaintiff

V

UNITED STATES OF AMERICA
Defendant

Case No. 08 C 3051
(90 CR 0654-2)

Honorable James F. Holderman
Judge Presiding

FILED
AUG 21 2008 LW
AUG 21 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

NOTICE OF FILING

TO: AUSA Zaldwaynaka Scott
219 South Dearborn Street
Chicago, Illinois 60602

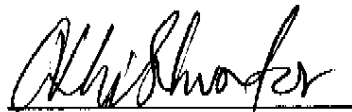
PLEASE TAKE NOTICE that on the 15th day of August, 2008, I caused to be filed with the Clerk of the Court for the Northern District of Illinois, Plaintiff's Notice Of Appeal and Jurisdictional Statement, copies of which are attached hereto and hereby served upon you.



Vincent Nwafor, Pro Se.
Reg. No. 96415-024
L.S.C.I - Allenwood
P.O. Box 1000
White Deer, PA. 17887

CERTIFICATE OF SERVICE

I, Vincent Nwafor, Pro Se Plaintiff, do hereby certifies that I served the foregoing Notice and Pleadings on the Party addressed above by depositing same in the U.S. Mail-Box at L.S.C.I. Allenwood, White Deer Pennsylvania, with proper Prepaid Certified Mail on August 15, 2008.



Vincent Nwafor, Pro Se.

SEVENTH CIRCUIT COURT OF APPEALS INFORMATION SHEET

Include the names of all plaintiffs (petitioners) and defendants (respondents) who are parties to the appeal. Use a separate sheet if needed.

NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION DOCKET NUMBER: 08 cv 3051

PLAINTIFF (Petitioner)

v.

DEFENDANT (Respondent)

Nwafor/appellant	USA/appellee
------------------	--------------

(Use separate sheet for additional counsel)

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name	Vincent Nwafor	Name	U.S. Atty Office
Firm	pro-se #96415-024	Firm	AUSA
Address	Allenwood-LSCI P.O. Box 1000 White Deer ,PA 17887	Address	219 S. Dearborn Suite 500 Chgo.II. 60604
Phone		Phone	312) 353-5300

Other Information			
District Judge	Holderman	Date Filed in District Court	5/27/08
Court Reporter	C. Conway X-5594	Date of Judgment	6/12/08, 7/22/08
Nature of Suit Code	540	Date of Notice of Appeal	7/21/08

COUNSEL: Appointed ☐ Retained ☐ Pro Se ☒

FEE STATUS: Paid ☐ Due ☐ IFP ☐
IFP Pending ☒ U.S. ☐ Waived ☐

Has Docketing Statement been filed with the District Court Clerk's Office? Yes ☒ No ☐

If State/Federal Habeas Corpus (28 USC 2254/28 USC 2255), was Certificate of Appealability:

Granted ☐ Denied ☐ Pending ☐

If Certificate of Appealability was granted or denied, date of order: _____

If defendant is in federal custody, please provide U.S. Marshall number (USM#): _____

IMPORTANT: THIS FORM IS TO ACCOMPANY THE SHORT RECORD SENT TO THE CLERK OF THE U.S. COURT OF APPEALS PURSUANT TO CIRCUIT RULE 3(A). Rev 04/01

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
Aug 21 2008
AUG 21 2008
AUG 21 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

VINCENT NWAFOR
Plaintiff

V.

UNITED STATES OF AMERICAN
Defendant

Case NO. 08 C 3051
(90 CR 0654-2)

Honorable James F. Holderman
Judge Presiding

**Appeals In a Civil Case - Rules 4(a)(1)(A) and 4(c) As
Required By Circuit Rule 3.**

The District Court had jurisdiction pursuant to Title 21 USC 841(a)(1) and 21 USC 846. Jurisdiction of this Court arises pursuant to Title 18 U.S.C.A Rule 41(g), and 28 USC section 1291.

Plaintiff being unschooled in Law request this Court not to hold this Notice Of Appeal on the same standards of a Counseled Litigant. See e.g. Haines V. Kerer, 404 U.S. 519 30 L.ed 2d 652 92 S.ct 594 [1972] [Per Curiam]

This Appeal follows a Minute Order of June 10, 2008, when the Court denied Plaintiff's Motion For Leave To Proceed in Forma Pauperis and subsgently denied Plaintiff's motion for Return Of Property, because the Clerk of the District Court Alleged the Plaintiff was directed to pay \$39.00 Miscellaneous filing fee, that was never paid.

The Undeniable fact is that this is a matter of the Clerk of the Court's failure to send a notice to Pro Se Plaintiff, instructing him to pay \$39.00 miscellaneous filing fee, as soon as the Leave To Proceed In Forma Pauperis was denied. The failure to notify Plaintiff of the \$39.00 filing fee deprived him of Due Process Of The Law.

A fundamental requirement of Due Process is the Opportunity to be heard; so, an opportunity for a hearing of this motion For Return Of Property is required by Due Process of the Law, and must be granted at a meaningful time and in a meaningful manner. The Government has a Special Responsibility to ensure the integrity of the Civil and Criminal Judicial Process by living up to the Code of Professional Ethics, and Fair play at all times. see U.S. V. White, 222 F.3d 363 (7th Cir. 2000).

The Unique Circumstance involved in this matter is that the L.S.C.I. Allenwood Legal-Mail Log never showed nor Indicated any entry of such mail received at this Federal Institution in the Month Of June, 2008. If this is the Government's way of not willing to respond to the Motion For Return Of Property, then this illegal tactics must not be allowed as a defence in the Court of Law.

However please note, that the Notice of the minute 'Order' of June 10, 2008, whereby the Court denied Plaintiff's Motion for leave to proceed in Forma Pauperis was received on July 25th, 2008.

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	JAMES F. HOLDERMAN	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 3051 (90 CR 0654-2)	DATE	June 10, 2008
CASE TITLE	Vincent Nwafor (#96415-024) vs. United States of America		

DOCKET ENTRY TEXT:

The petitioner/defendant's motion for leave to proceed *in forma pauperis* [#3] is denied. The petitioner is directed to pay the full \$39.00 miscellaneous filing fee. Failure of the petitioner to remit the filing fee within thirty days of the date of this order will result in summary dismissal of this case. The plaintiff is advised that he must provide the court with the original plus a judge's copy of every document filed.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

The petitioner/defendant, a federal prisoner, has filed a motion for the return of seized property pursuant to Fed. R. Crim. P. 41(g). The petitioner appears to contend that forfeiture proceedings relating to the property in question (currency, a car, a compact disk collection, a Rolex watch, and a cellular telephone) denied him due process.

The petitioner's motion for leave to proceed *in forma pauperis* is denied for lack of a sufficient showing of indigence. The plaintiff's financial affidavit reveals that he has a current balance of \$2,910.32 in his prison trust account. Because the plaintiff is a prisoner for whom the government provides the necessities of life, such assets do not qualify him for pauper status. *See Lumbert v. Illinois Department of Corrections*, 827 F.2d 257, 260 (7th Cir. 1987); *Zaun v. Dobbin*, 628 F.2d 990, 993 (7th Cir. 1980). A prisoner, like any other person contemplating a civil suit, must consider the cost of the litigation versus the probability of success.

In sum, the court finds that the plaintiff is financially able to pay the miscellaneous filing fee of \$39.00. Consequently, the plaintiff must prepay the statutory filing fee if he wishes to proceed with this action. The plaintiff may pay by check or money order made payable to Clerk, United States District Court. If the plaintiff fails to pay the filing fee within thirty days of the date of this order, the case will be summarily dismissed. *See Brekke v. Morrow*, 840 F.2d 4, 5 (7th Cir. 1988).

The plaintiff is advised that he must provide the court with the original plus a judge's copy of every document filed.

mjm

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	JAMES F. HOLDERMAN	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 3051 (90 CR 0654-2)	DATE	July 21, 2008
CASE TITLE	Vincent Nwafor (#96415-024) vs. United States of America		

DOCKET ENTRY TEXT:

By Minute Order of June 10, 2008, the court denied the petitioner/defendant's motion for leave to proceed *in forma pauperis* and directed him to pay the full \$39.00 miscellaneous filing fee. The petitioner was forewarned that failure to remit the filing fee within thirty days would result in summary dismissal of this case. Nevertheless, over thirty days have elapsed and the petitioner has not responded to the court's order. Accordingly, the petitioner's motion for return of property [#1] is denied and the case is terminated.

Docketing to mail notices.

mjm

APPEAL, MASON, TERMED

United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 3.2.1 (Chicago)
CIVIL DOCKET FOR CASE #: 1:08-cv-03051
Internal Use Only

Nwafor v. United States of America et al
Assigned to: Honorable James F. Holderman
Cause: 28:1355 Petition for Return of Property

Date Filed: 05/27/2008
Date Terminated: 07/21/2008
Jury Demand: None
Nature of Suit: 540 Prisoner: Mandamus
& Other
Jurisdiction: Federal Question

Plaintiff**Vincent Nwafor**

represented by **Vincent Nwafor**
#96415-024
Allenwood - LSCI
P.O. Box 1000
White Deer, PA 17887
PRO SE

V.


Defendant**United States of America**

represented by **AUSA**
United States Attorney's Office (NDIL)
219 South Dearborn Street
Suite 500
Chicago, IL 60604
(312) 353-5300
Email:
USAILN.ECFAUSA@usdoj.gov
ATTORNEY TO BE NOTICED

Service List

represented by **Prisoner Correspondence - Internal
Use Only**
Email:
Prison1_ILND@ilnd.uscourts.gov
TERMINATED: 08/05/2008

Date Filed	#	Docket Text
05/27/2008	1	RECEIVED MOTION with no copies by Plaintiff Vincent Nwafor for return of property (mb,) (Entered: 05/28/2008)

05/27/2008	2	CIVIL Cover Sheet (mb,) (Entered: 05/28/2008)
05/27/2008	3	MOTION by Plaintiff Vincent Nwafor for Permission to Proceed in forma pauperis status pursuant to 28 U.S.C. Section 1915(b)(1). (mb,) (Additional attachment(s) added on 5/28/2008: # 1 Inmate Statement) (mb,). (Poor Quality Original - Paper Document on File.) (Entered: 05/28/2008)
05/27/2008	4	AFFIDAVIT of Vincent Nwafor by Vincent Nwafor in support of motion for return of property 1 . (mb,) (Entered: 05/28/2008)
05/27/2008	6	POST MARKED envelope for initiating document by Vincent Nwafor (Document not scanned) (aew,) (Entered: 06/12/2008)
06/10/2008	5	MINUTE entry before the Honorable James F. Holderman: Plaintiff's application for leave to proceed in forma pauperis 3 is denied. Mailed notice (mb,) (Entered: 06/11/2008)
06/10/2008	7	MINUTE entry before the Honorable James F. Holderman: The petitioner/defendants motion for leave to proceed in forma pauperis [#3] is denied. The petitioner is directed to pay the full \$39.00 miscellaneous filing fee. Failure of the petitioner to remit the filing fee within thirty days of the date of this order will result in summary dismissal of this case. The plaintiff is advised that he must provide the court with the original plus a judges copy of every document filed. Mailed notice (mb,) (Entered: 06/12/2008)
07/21/2008	8	MINUTE entry before the Honorable James F. Holderman: By Minute Order of June 10, 2008, the court denied the petitioner/defendant's motion for leave to proceed in forma pauperis and directed him to pay the full \$39.00 miscellaneous filing fee. The petitioner was forewarned that failure to remit the filing fee within thirty days would result in summary dismissal of this case. Nevertheless, over thirty days have elapsed and the petitioner has not responded to the courts order. Accordingly, the petitioners motion for return of property 1 is denied and the case is terminated. Mailed notice (ar,) (Entered: 07/22/2008)
08/21/2008	9	NOTICE of appeal by Vincent Nwafor regarding orders 7 , 8 (ifp pending) (dj,) (Entered: 08/25/2008)
08/21/2008	10	DOCKETING Statement by Vincent Nwafor regarding notice of appeal 9 (dj,) (Entered: 08/25/2008)
08/21/2008	 11	MOTION by Plaintiff Vincent Nwafor for permisson for leave to proceed on appeal in forma pauperis (dj,) (Entered: 08/25/2008)
08/25/2008	12	NOTICE of Appeal Due letter sent to counsel of record (dj,) (Entered: 08/25/2008)